

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JONATHAN COLLIN AUTRY,

Plaintiff,

v.

SACRAMENTO COUNTY, *et al.*,

Defendants.

Case No. 2:22-cv-00554-TLN-JDP (PC)

**ORDER**

FINDING THAT THE SECOND AMENDED COMPLAINT STATES VIABLE FOURTEENTH AMENDMENT CLAIMS AGAINST DEFENDANTS SACRAMENTO COUNTY, BABU, KIM, AND ABDULLA

DENYING PLAINTIFF'S MOTION FOR WEEKLY LAW LIBRARY ACCESS

ECF Nos. 32 & 39

**FINDINGS AND RECOMMENDATIONS**

THAT ALL OTHER CLAIMS AND DEFENDANTS BE DISMISSED

ECF No. 32

OBJECTIONS DUE WITHIN FOURTEEN DAYS

Plaintiff, a state prisoner, brings this § 1983 case and alleges that, during his time at the Sacramento County Jail, defendants violated his rights by denying him adequate medical care and failing to comply with the Americans with Disabilities Act (“ADA”). I find that plaintiff has stated Fourteenth Amendment failure-to-provide-adequate-medical-care and ADA claims against

1 defendants Babu, Kim, Abdulla, and Sacramento County. I also find, however, that plaintiff's  
2 claims against defendant Susan are insufficiently related to his other claims, and should be  
3 dismissed so that plaintiff may, if he so chooses, bring them in a separate action.

4 **Screening Order**

5 **I. Screening and Pleading Requirements**

6 A federal court must screen the complaint of any claimant seeking permission to proceed  
7 *in forma pauperis*. See 28 U.S.C. § 1915(e). The court must identify any cognizable claims and  
8 dismiss any portion of the complaint that is frivolous or malicious, fails to state a claim upon  
9 which relief may be granted, or seeks monetary relief from a defendant who is immune from such  
10 relief. *Id.*

11 A complaint must contain a short and plain statement that plaintiff is entitled to relief,  
12 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its  
13 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not  
14 require detailed allegations, but legal conclusions do not suffice. See *Ashcroft v. Iqbal*, 556 U.S.  
15 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere  
16 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not  
17 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg'l Med. Ctr.*, 832 F.3d 1024,  
18 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that  
19 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264  
20 n.2 (9th Cir. 2006) (en banc) (citations omitted).

21 The court must construe a pro se litigant’s complaint liberally. See *Haines v. Kerner*, 404  
22 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it  
23 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which  
24 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).  
25 However, ““a liberal interpretation of a civil rights complaint may not supply essential elements  
26 of the claim that were not initially pled.”” *Brunsv. Nat'l Credit Union Admin.*, 122 F.3d 1251,  
27 1257 (9th Cir. 1997) (*quoting Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

1           **II. Analysis**

2           Plaintiff alleges that he has had unspecified partial amputations to his right foot and that,  
3 during his time at the Sacramento County Jail, defendants failed to provide him with appropriate  
4 foot ware, prosthetics, and ADA accommodations. ECF No. 34 at 5. He attributes these failings  
5 to policies and procedures of the county, *id.*, and the specific actions—or, in some cases,  
6 inactions—of defendants Babu, Kim, and Abdulla, *id.* at 6-7, 11. These allegations are, for  
7 screening purposes, cognizable.

8           By contrast, plaintiff's allegations against defendant Susan, a nurse, appear unrelated to  
9 his amputation (and attendant health issues). He claims that Susan told other inmates he was  
10 taking psychiatric medication and accused him of being a “master manipulator.” *Id.* at 8. He also  
11 alleges that, in November 2022, he suffered a “psychosomatic attack” and a “paralysis lock up”  
12 that Susan ignored. *Id.* at 9. These allegations appear distinct from his ADA and other medical  
13 claims concerning his foot. Accordingly, they should be brought, if at all, in a separate action.  
14 *See George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (citing 28 U.S.C. § 1915(g)); *see also*  
15 Federal Rule of Civil Procedure Rule 21 (providing that a court may add or drop parties “at any  
16 stage of the action and on such terms as are just”). It does not appear that plaintiff would be  
17 prejudiced if he were required to bring these claims in a separate suit insofar as it appears his  
18 claims would still be timely if they were brought anew today. *See Cal. Civ. Proc. Code §§ 335.1,*  
19 *352.1(a)* (two-year statute of limitations for personal injury claims and a two-year tolling period  
20 due to incarceration).

21           Finally, I will deny plaintiff's motion for weekly access to the North Kern State Prison  
22 law library. ECF No. 39. The level of law library access at this facility is not at issue in this suit,  
23 and I decline to issue orders impacting the operations of that prison. Plaintiff may, however,  
24 show this order to the relevant officials at the prison as evidence that he is litigating a case in  
25 federal court, and remind them of his constitutional right to access the courts.

26           Accordingly, it is ORDERED that:

27           1. This action shall proceed based on the Fourteenth Amendment inadequate medical care  
28 and ADA claims against defendants Sacramento County, Babu, Kim, and Abdulla.

2. The Clerk of court shall send plaintiff four USM-285 forms, a summons, a Notice of Submission of Documents form, an instruction sheet, and a copy of the second amended complaint filed December 11, 2023, ECF No. 32.

3. Within thirty days from the date of this order, plaintiff shall complete the attached Notice of Submission of Documents and submit the completed Notice to the court with the following documents:

- a. one completed summons for the defendants;
  - b. four completed USM-285 forms; and
  - c. five copies of the signed December 11, 2023 complaint.

4. Plaintiff need not attempt service on defendants and need not request waiver of service. Upon receipt of the above-described documents, the court will direct the U.S. Marshals Service to serve the above defendants pursuant to Federal Rule of Civil Procedure 4, without payment of costs by plaintiff.

5. The failure to comply with this order may result in the dismissal of this action.

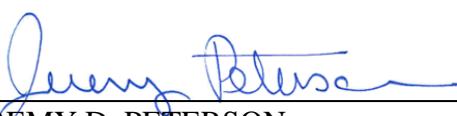
6. Plaintiff's motion for law library access, ECF No. 39, is DENIED.

Further, it is RECOMMENDED that the claims against defendant Susan be dismissed without prejudice as insufficiently related to the other claims in this action.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the objections shall be served and filed within fourteen days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

1  
2 IT IS SO ORDERED.  
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4 Dated: March 13, 2024  
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JEREMY D. PETERSON  
UNITED STATES MAGISTRATE JUDGE

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NOTICE OF SUBMISSION OF  
DOCUMENTS

In accordance with the court's Screening Order, plaintiff must submit:

1 completed summons form

4 completed forms USM-285

5 copies of the December 28, 2023 complaint

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Plaintiff

Dated: